

REMARKS

The Applicant respectfully requests reconsideration and allowance of claims 1, 3-20, and 22 in view of the above amendments and the arguments set forth below.

The Applicant appreciates the indication in the Final Office Action that claims 21, 24, and 25 are allowed.

I. TELEPHONE INTERVIEW

A telephone interview was conducted between Examiner Corbin and Applicant's attorney Russell Culbertson on July 19, 2004. In the interview the Examiner suggested the above amendments to claims 1 and 3 to overcome the section 112 rejections. The Applicant's attorney also raised the point with regard to the prior art rejections that neither of the cited references teach or suggest increasing the moisture content of the meat product and then distributing the moisture, including the added moisture, throughout the meat product. The Examiner expressed the position that the Nakayama reference disclosed spraying ammonium hydroxide solution on a ground meat product and that there would inevitably be some mixing to distribute that added moisture. The Applicant's attorney understands that agreement was reached as to the amendments to claims 1 and 3 to obviate the section 112 rejections. However, no agreement was reached as to the prior art based rejections.

II. THE SECTION 112 REJECTIONS

Claims 1 and 3 were rejected under 35 U.S.C. §112, second paragraph, in view of the reference to "the added moisture" in each of those claims. The above amendments delete the

word "added." It is believed that the amendments to claims 1 and 3 above clearly overcome the section 112 rejections.

IL THE CLAIMS ARE NOT OBVIOUS OVER THE 795 PATENT IN VIEW OF NAKAYAMA

Claims 1-13, and 22 were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,871,795 to Roth (the "795 patent"), in view of the Japanese publication by Nakayama, et al. (the "Nakayama reference" or "Nakayama"). The Applicant traverses these rejections on the ground that the proposed combination does not teach or suggest all of the elements required in the rejected claims. Furthermore, there is no suggestion in the prior art to combine the gas application process disclosed in the 795 patent and the ammonium hydroxide solution washing process disclosed in the Nakayama reference.

The Cited References Do Not Suggest Each Required Element In The Claims

Independent claims 1, 12, and 22 each requires increasing the moisture content of a comminuted meat product, distributing the moisture content throughout the meat product, and creating an ammonium hydroxide solution distributed throughout the meat product. Claim 13 requires adding an ammonium hydroxide solution to a comminuted meat product and distributing ammonium hydroxide solution throughout the meat product. The Applicant submits that the proposed combination of the 795 patent and Nakayama reference does not teach or suggest adding moisture content to a meat product, distributing the moisture content throughout the meat product, and distributing an ammonium hydroxide solution throughout the meat product as required by claims 1, 12, and 22. The Applicant also submits that the proposed combination of references does not teach adding an ammonium hydroxide solution to a comminuted meat

1 product and distributing the ammonium hydroxide solution throughout the meat product as  
2 required by claim 13.

3 The 795 patent was cited for its disclosure that ammonia gas may be added to  
4 comminuted meat. However, the 795 patent does not teach or suggest adding moisture to the  
5 comminuted meat along with the ammonia gas. The rejections rely on the Nakayama reference  
6 for a suggestion of adding moisture to the meat product. However, the Nakayama reference does  
7 not teach or suggest distributing added moisture or added ammonium hydroxide solution  
8 throughout the meat product.

9 In the Final Office Action the Examiner contends that distributing ammonium hydroxide  
10 solution throughout the meat product does in fact happen in the system disclosed in the 795  
11 patent. However, the present claims do not merely require distributing ammonium hydroxide  
12 solution throughout the meat product. The claims either require adding an ammonium hydroxide  
13 solution and distributing that solution throughout the meat product (claim 13) or adding water to  
14 the meat product, distributing water throughout the meat product, and distributing ammonium  
15 hydroxide solution throughout the meat product (claims 1, 12, and 22).

16 In the telephone interview, the Examiner stated the position that the Nakayama reference  
17 disclosed spraying ammonium hydroxide solution on a ground meat product and that the  
18 resulting added ammonium hydroxide solution would be inevitably mixed throughout the ground  
19 meat product. The Applicant submits that there is no technical basis for the proposition that  
20 merely spraying ammonium hydroxide solution on a ground meat product inevitably results in  
21 any mixing of ammonium hydroxide solution in the ground meat product. Furthermore, even if it  
22 could be shown that some of the sprayed-on solution might seep into the interior of the ground  
23 meat product, there is certainly no basis for the proposition that the added ammonium hydroxide  
24 solution would inevitably be distributed throughout the meat product as required by the present

1 claims. Thus, the Applicant submits that the Examiner's reliance on the Nakayama reference for  
2 the proposition of distributing added moisture or added ammonium hydroxide solution  
3 throughout a comminuted meat product is in error.

4 Because the cited references do not teach or suggest adding water to a comminuted meat  
5 product and distributing the water so that an ammonium hydroxide solution is distributed  
6 throughout the meat product and also do not teach or suggest adding an ammonium hydroxide  
7 solution to a meat product and distributing that added solution throughout the meat product, the  
8 Applicant submits that the cited references do not teach or suggest each element required in  
9 claims 1, 12, 13, and 22. Thus, the Applicant submits that claims 1, 12, 13, and 22 are entitled to  
10 allowance together with their respective dependent claims.

11  
12 There Is No Suggestion In The Prior Art To Make The Proposed Combination Of References

13 In order to combine the teachings of different prior art references to make an obviousness  
14 rejection under 35 U.S.C. §103, there must be some teaching, motivation, or suggestion  
15 somewhere in the prior art to make the proposed combination. However, there is no such  
16 teaching, motivation, or suggestion in the prior art to combine the 795 patent and Nakayama  
17 reference as proposed by the Examiner.

18 It is first noted that the 795 patent specifically teaches applying ammonia gas or a pH  
19 increasing material in a carrier gas to a comminuted meat product under certain conditions to  
20 increase the pH of the meat product in a short application period. The purpose of the pH  
21 increasing treatment in the 795 patent was to inhibit microbe activity in the meat product. As  
22 discussed beginning at the bottom of Col. 4 through Col. 5 of the 795 patent, the short gas  
23 pressure application period was used to overcome adverse effects associated with extended

1 exposure to the ammonia. Furthermore, the 795 patent discloses using a gas in the treatment to  
2 apply a pressure effect in addition to the pH increase.

3 On the other hand, the Nakayama reference discloses applying ammonia gas and/or  
4 ammonium hydroxide solution to eliminate undesirable odors from raw fowl meat. The  
5 ammonia gas and/or ammonium hydroxide solution is applied only to the surface of the fowl  
6 meat being treated. In particular, the latter half of page 3 of the English translation indicates that  
7 ammonia gas may be applied by placing the meat in an ammonia gas atmosphere, and further  
8 indicates that ammonium hydroxide solution may be sprayed onto the fowl meat or the fowl meat  
9 may be immersed in the solution. Nothing in the Nakayama reference teaches or suggests that an  
10 ammonium hydroxide solution is mixed with a comminuted meat product so that the solution is  
11 distributed throughout the meat product. In fact, such a distribution throughout the meat product  
12 would appear to be inconsistent with the purpose of the treatment in Nakayama to eliminate  
13 odors which emanate from the surface of the meat product.

14 In order for the 795 patent and Nakayama reference to be combined so as to include each  
15 element required in Applicant's claims 1, 12, 13, and 22, it would be necessary to spray an  
16 ammonium hydroxide solution on the surface of a comminuted meat product as disclosed in  
17 Nakayama, and then run the comminuted meat product through the mixing arrangement  
18 disclosed in the 795 patent. However, the 795 patent discloses applying ammonia gas or a pH  
19 increasing material in a carrier gas to the comminuted meat product for only a short duration and  
20 certain conditions to limit overexposure to ammonia. Thus, one would have to ignore the  
21 teachings of the 795 patent regarding ammonia overexposure in order to make a combination in  
22 which ammonium hydroxide solution is applied to a meat product first and then the meat product  
23 is mixed. There is no suggestion anywhere in the record that one of ordinary skill in the art

1 acting at the time of this invention would have ignored the teachings of the 795 patent to make  
2 the Examiner's proposed combination.

3 Because there is no teaching or suggestion in the prior art to make the proposed  
4 combination of the 795 patent and the Nakayama reference, the Applicant submits that the  
5 proposed combination is improper under 35 U.S.C. §103, and that the rejected claims are  
6 therefore entitled to allowance.

7  
8 **III. CLAIMS 14-20 ARE ALLOWABLE OVER THE 795 PATENT**

9 Claims 14-20 were rejected as either being anticipated by or obvious in view of the 795  
10 patent. The Applicant believes the claims are not anticipated by nor obvious in view of the 795  
11 patent because the 795 patent does not teach or suggest a moisture enhanced meat product as  
12 required in claim 14 and its dependent claims, claims 15-20.

13 As discussed above, the 795 patent teaches applying ammonia gas or a pH increasing  
14 material in a carrier gas for a short duration. The 795 patent does not suggest producing a  
15 moisture enhanced meat product having an ammonium hydroxide solution distributed throughout  
16 the product. The 795 patent certainly does not teach or suggest setting the treated product by  
17 adding heat and/or pressure to the product. Since claim 14 requires a meat product produced by  
18 adding moisture to a comminuted meat product and producing an ammonium hydroxide solution  
19 throughout the comminuted meat product, and further requires that the meat product be produced  
20 by setting the moisture enhanced meat product with the application of heat and/or pressure, the  
21 795 patent cannot anticipate claim 14 or make the claim obvious.

22 For these reasons the Applicant submits that claim 14 is not anticipated by, or obvious in  
23 view of, the 795 patent, and is entitled to allowance together with its dependent claims, claims 15  
24 through 20.

## 1 IV. CONCLUSION

2 For all of the above reasons, the Applicant respectfully requests reconsideration of claims  
3 1, 3-20, and 22, and allowance of these claims together with previously allowed claims 21, 24,  
4 and 25. If the Examiner should feel that any issue remains as to the allowability of these claims,  
5 or that a conference might expedite allowance of the claims, he is asked to telephone the  
6 Applicant's attorney Russell D. Culbertson at the number listed below.

7  
8 Respectfully submitted,

9 The Culbertson Group, P.C.

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11  
12 Dated: July 23, 200413 By: 

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## 22 CERTIFICATE OF FACSIMILE

23 I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark  
24 Office, (Fax No. 703-872-9306) on July 23, 2004.

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